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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF LOS ANGELES**
18

19 WILLIAM TAYLOR,

20 Plaintiff,

21 vs.

22 CITY OF BURBANK,

23 Defendant.
24

Case No: BC422252

Assigned to: Hon John L. Segal

Action Filed: Sept. 22, 2009

Trial Date: March 5, 2012

**NOTICE OF MOTION AND MOTION TO
TAX COSTS; MEMORANDUM OF POINTS
AND AUTHORITIES AND DECLARATION
OF ROBERT J. TYSON IN SUPPORT
THEREOF**

Date: June 19, 2012

Time: 8:30 a.m.

Dept: 50

*LUS -
PLS
Calendar* ✓ *done.*

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NOTICE OF MOTION AND MOTION TO TAX COSTS; MEMORANDUM OF P&A AND TYSON
DECLARATION IN SUPPORT

TO PLAINTIFF AND TO HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on **Monday, June 19, 2012 at 8:30 a.m.** or as soon thereafter as counsel may be heard in Department 50 of the above-entitled court, a hearing will be held on the Motion of Defendant CITY OF BURBANK ("City") to tax costs claimed in Plaintiff William Taylor's Memorandum of Costs, served by mail on City on April 27, 2012¹.

This Motion is brought pursuant to Rule 3.1700(b) of the *Rules of Court* on the grounds that many of the claimed costs were not reasonable or necessary, or are not allowed by law to be recovered.

City moves to tax plaintiff's claimed costs as follows:

<i>Item No.</i>	<i>Category</i>	<i>Claimed</i>	<i>Amount to Be Taxed</i>	<i>Allowable Award</i>
1	Filing and Motion Fees	1,274.87	579.87	695.00
2	Jury Fees	1,261.44	236.48	1,024.96
4	Deposition Costs	5,472.80	338.20	5,134.60
5	Service of Process	1,270.00	1,020.00	250.00
8a	Witness fees - Ordinary	849.92	-	849.92
8b	Witness fees - Expert under 998	29,615.00	29,615.00	-
11	Models, blow-ups and photocopies of exhibits	2,548.47	2,265.14	283.33
12	Court Reporter Fees as established by statute	3,438.00	-	3,438.00
13	Other (see Worksheet)	3,315.78	3,315.78	-
TOTAL		49,046.28	37,370.47	11,675.81

¹ Pursuant to *California Rules of Court* Rule 3.1700(b)(2), all numbered references to costs claimed by Plaintiff to which Defendant objects are numbered sequentially and in the order in Plaintiff's memorandum of costs, whether Plaintiff numbered those items or not.

1 City notes that it has been unable to verify the Memorandum of Costs was actually filed,
2 as the Court's on-line docket reflects more recently filed documents, but does not include the
3 Memorandum of Costs. If memorandum was not timely filed it should be stricken in its entirety.

4 This Motion is based upon this Notice of Hearing and Motion, the attached Memorandum
5 of Points and Authorities, the attached Declaration of Robert J. Tyson and exhibits thereto, upon
6 all papers, pleadings, records on file herein, and upon such further oral and documentary evidence
7 as may be presented at the hearing on the Motion.

8 DATED: May 17, 2012

BURKE, WILLIAMS & SORENSEN, LLP
RONALD F. FRANK
ROBERT J. TYSON

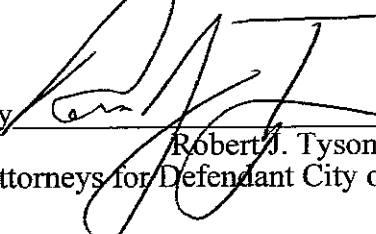
10
11 By 
12 Robert J. Tyson
13 Attorneys for Defendant City of Burbank
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff William Taylor ("plaintiff") brought this suit and prevailed at trial. He then filed
4 and mail served a Memorandum of Costs seeking more than \$49,000 in costs. Review of the
5 memorandum reveals clear instances of puffing up the bill with non-recoverable expenses.
6 Defendant City of Burbank ("City") hereby moves to tax the costs requested by plaintiff by
7 reducing or eliminating numerous items therefrom.

8 For all of the following reasons, this Motion to Tax Costs should be granted:

9 First, plaintiff requested costs for filing fees should be reduced because plaintiff seeks fees
10 which are clearly not filing fees, such as for oppositions and replies, seeks fees above published
11 rates for motions which appear to include improper charges for photocopying or mailing, and/or
12 seeks fees for unspecified, undated filings;

13 Second, plaintiff's request for jury fees should be reduced because plaintiff incorrectly
14 calculated the total of the payments listed;

15 Third, an excessive cost for a deposition video should be reduced;

16 Fourth, service of process charges should be reduced as many charges for service of
17 documents not conducted by registered process servers are not specified, service charges on non-
18 party law firms, duplicative service charges upon City departments (in addition to proper service
19 upon the City) and a service charge for a witness for whom the City agreed in writing to accept
20 service should each be eliminated;

21 Fifth, expert witness fees must be taxed from the memorandum of costs as they are only
22 potentially recoverable under FEHA in this case and must be sought from the Court by motion,
23 not in a memo of costs. In addition, those fees are excessive and include extra time spent by
24 experts correcting their own mistakes and non-recoverable time spent at deposition;

25 Sixth, plaintiff's excessive copying costs for trial exhibits should be greatly reduced to
26 reflect the fact that plaintiff only admitted 11% of the pages in the overly inclusive exhibit
27 volumes he copied; and
28

1 Seventh and finally, all of the expenses listed under Other in the Memorandum are non-
2 recoverable and should be taxed in their entirety.

3 **II. FACTUAL BACKGROUND**

4 Plaintiff was a Captain with the Burbank Police Department (“BPD”) until he was
5 terminated in June of 2010. He brought claims for retaliation under both FEHA and the
6 whistleblower statute. From March 5 to March 15, 2012, he tried those claims against the City.
7 The jury returned a general verdict in plaintiff’s favor. On April 27, 2012, plaintiff served by
8 mail a memorandum of costs seeking \$49,046.28 in costs.

9 **III. THE COURT SHOULD TAX COSTS NOT ALLOWED BY LAW OR NOT**
10 **REASONABLE OR NECESSARY**

11 Pursuant to Rule 3.1700(b) of the *Rules of Court*, a party may object to a memorandum of
12 costs by bringing a motion seeking to strike or tax the costs. Costs should only be allowed if
13 “reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial
14 to its preparation.” *CCP* § 1033.5(c). If the items are of the type that they appear on their face to
15 be proper costs, the burden is on the moving party to prove that the costs were not reasonable or
16 necessary. *Ladas v. California State Auto Assn.* (1993) 19 Cal.App.4th 761, 774-776. However,
17 once items are properly objected to and put in issue by the moving party, the burden is on the
18 party claiming them as costs. *Id.* Indeed, the statute permitting recovery of costs “as a matter of
19 right” nevertheless authorizes a trial court to disallow recovery of a cost if the court determines
20 that the fee was not reasonably necessary to litigation. *Perko's Enterprises, Inc. v. RRNS*
21 *Enterprises* (1992) 4 Cal.App.4th 238, 244-245; *CCP* § 1033.5(a),(c). Whether a cost item was
22 reasonably necessary is a question of fact to be decided by the Court. *Ladas, supra*, 19
23 Cal.App.4th at 774.

24 **A. “Item 1: Filing and Motions Fees” Should Be Reduced To \$695**

25 Plaintiff has puffed up his filing fee costs with several costs which are not recoverable.
26 For example, plaintiff has posited \$273.12 in “filing fees” in widely varied amounts for
27 oppositions briefs or objections even though there is no filing fee for oppositions. [See Tyson
28 Decl., Ex. A, Item Nos. 1f, 1i, 1j, 1r, 1s, pp. 2, 5.] Similarly, plaintiff has posited \$16.50 for

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1 “filing fees” in filing a reply brief for which there is no filing fee. [Id., Item Nos. 1c, , p. 2.] He
2 has also listed \$53.50 for the filing of his “Government Claim” even though that claim was not a
3 filing in this action. [Id, Item Nos. 1e, , p. 2.]

4 Also, \$165.75 for filing fees for unspecified Pitchess and Discovery Motions [Id., Item
5 1b] does not appear to be a filing fee and is completely uncertain as plaintiff lists five other
6 pitches motions he filed with the Court. In addition, \$10.50 for a Joint Status Report [Id., Item
7 1n], and \$20 for Stipulated Facts [Id., Item 1t] do not appear to be filing fees as fees should
8 normally be required to file such documents. Finally, plaintiff offers insufficient detail about an
9 “Ex Parte Hearing” for which he claims \$40. [Id., Item 1k.] This should be taxed unless and
10 until plaintiff can show a specific ex parte filing he made in this case.

11 Due to the wide variations in costs, it is clear that in most of the items identified above,
12 plaintiff is not actually seeking recovery of filing fees, but is instead improperly seeking non-
13 recoverable costs such as, perhaps, copying, postage, or overnight mailing. *See CCP* §
14 1033.5(b)(3); *Ladas, supra*, 19 Cal.App.4th at 773-774 (faxing photocopying, telephone and
15 postage not recoverable); *Ripley v. Pappadopoulos* (1994) 23 Cal.App.4th 1616, 1627 (federal
16 express delivery not recoverable); *Travelers Casualty & Surety Co. v. Employers Ins. Of Wausau*
17 (2005) 130 Cal.App.4th 99, 117 (photocopying not recoverable). Since these items are not in fact
18 filing fees, these “costs” are not recoverable as filing fees. Indeed, the statute permitting recovery
19 of costs “as a matter of right” nevertheless authorizes a trial court to disallow recovery of a filing
20 fee as a cost if the court determines that the fee was not reasonably necessary to litigation. *Perko's*
21 *Enterprises, Inc. v. RRNS Enterprises* (1992) 4 Cal.App.4th 238, 244-245.

22 As such, all of the above identified costs should be taxed and the amount of filing fees
23 awarded to plaintiff as costs reasonably necessary to the litigation should be reduced to \$695.

24 **B. Item 2: Jury Fees Were Incorrectly Totaled**

25 Plaintiff's jury fees request should be reduced due to plaintiff's mathematical mistake.
26 Plaintiff requests a total of \$1274.87 based upon payments of \$150.00, 362.48 and 512.48.
27 [Tyson Decl., Ex. A, Item 2, p. 2.] However, those three payments actually add up to only

1 \$1024.96. Thus, Item 2 Jury Fees should be taxed and reduced by \$236.48 to an award of
2 \$1024.96.

3 **C. Item 4: Deposition Costs For One Video Is Excessive**

4 Plaintiff seeks reimbursement for costs of several depositions, including for two charges
5 for videos. However, the cost of one of these videos is clearly excessive and should be reduced.
6 Plaintiff claims the video of John Murphy's deposition cost \$180, but that the video of Cindy
7 Magnante's deposition cost \$538.20—virtually three times as much. The costs of the transcripts
8 of the two depositions were reasonably similar (\$642 to \$803). The only logical conclusion is
9 that plaintiff spent more money for extra bells and whistles on Ms. Magnante's deposition video
10 that were an unnecessary, and not recoverable expense. *See Science Applications Int'l. Corp. v.*
11 *Superior Court* (1995) 39 Cal.App.4th 1095, 1104 (costs in editing deposition video for more
12 effective presentation is unnecessary and not a recoverable cost). Ms. Magnante did not testify at
13 trial at all, so any extra expense cannot be justified as reasonably necessary.

14 The City submits that the allowable video cost of the Magnante Deposition should be
15 reduced by \$338.20 to \$200. As such, Deposition costs should be taxed and reduced to
16 \$5,134.60.

17 **D. Item 5: Service of Process Costs Should Be Reduced To \$250**

18 Plaintiff's requested costs for Service of Process should be taxed and reduced to \$250.
19 First, the Court should tax the \$90 for service of process to Tim Stehr [Item No. 5(i)] because the
20 City agreed to accept service for Mr. Stehr. [Tyson Decl, ¶ 3, Exs. B-C.] The City should not be
21 charged a cost it offered to allow plaintiff to avoid incurring.

22 Second, City should not be charged \$40 for service of process upon Solomon Gresen
23 [Item No. 5(h).] Mr. Gresen is an attorney representing several other current or former Burbank
24 police officers in separate suits against the City. [Tyson Decl., ¶ 4.] However, he has never
25 appeared as counsel in this action. Moreover, neither Mr. Gresen nor any of his clients testified at
26 trial in this action. [Id.] As such, this request is simply in the wrong case.

27 Third, there are numerous charges which plaintiff listed in this section of the form under
28 the "other" column, instead of the charge for a registered process server. The form required the

1 plaintiff to “specify” the nature of such other charges, but he failed to offer any specificity at all.
2 Where it cannot be determined from the face of the costs bill how a subpoena was served, the
3 costs bill is “insufficient.” *Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 133 (trial court
4 properly taxed similar unexplained service of process charges).

5 The City can only speculate what these charges are for, as they appear grossly out of
6 proportion to the registered process server charges listed in the section. Plaintiff improperly
7 seeks some “other” service charges for serving the “Burbank Police Department” and “Office of
8 the City Attorney” [Tyson Decl., Ex. A, Items Nos. 5(a) and (c), p. 3], both of which should be
9 taxed, as a registered process server is listed as having served the City. [Id., Item 5(b), p. 3.]
10 Also listed as “other” charges in the service of process category are \$295.59 and \$160.43 for
11 some sort of unspecified service upon the two law firms for City’s trial counsel, which was not
12 necessary and should be taxed. [Id., Items Nos. 5(d) and (f), p. 7] \$17.75 for unspecified service
13 for a third law firm [Id., Item No. 5(g), p. 7] should also be taxed.

14 **E. Item 8.b: Expert Witness Fees Should Be Taxed**

15 Plaintiff seeks \$29,615.00 in expert witness fees [Tyson Decl., Ex. A, Item 8.b., p. 4],
16 which should be taxed in its entirety.

17 **1. Expert Fees Are Normally Excluded**

18 Expert witness fees not ordered by the Court are not recoverable unless otherwise
19 permitted by law. *CCP* § 1033.5(b)(1); *Olson v. Automobile Club of Southern California* (2008)
20 42 Cal.App.4th 1142, 1149-1150, 1156-1157. Expert witness fees would be allowable if the
21 expert testimony was ordered by the Court. *CCP* § 1033.5(a)(8). That was not the case here, and
22 plaintiff did not fill out the place on the memorandum of costs form (Item 8.c.) for court ordered
23 experts. Expert witness fees might be allowable if plaintiff had made and City had rejected an
24 offer under *CCP* § 998. The section of the memorandum of costs in which plaintiff placed his
25 expert fees was Item 8..b. “Expert Fees (*per Code of Civil Procedure section 998*)” (emphasis in
26 original). However, plaintiff never made a § 998 offer in this case. [Tyson Decl., ¶ 5.]

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1 **2. FEHA Expert Fees Cannot Be Awarded In A Memorandum of Costs**

2 The Fair Employment and Housing Act (FEHA) allows for an award of expert fees, along
3 with attorney's fees, to the prevailing party. *Gov. Code* § 12965(b). However, this is not the
4 proper method for seeking reimbursement of those fees.

5 In *Anthony v. City of Los Angeles* (2008)166 Cal.App.4th 1011, 1015-1016, the Court held
6 that such expert fees may not be awarded by the clerk pursuant to a memorandum of costs:

7 By contrast, costs such as expert witness fees not ordered by the
8 court, or attorney fees that require a court determination, **may not**
9 **be "immediately enter [ed]" by the clerk**, and instead **necessitate a**
10 **decision by the trial court**, exercising its discretion. In short, there
11 would be no point in requiring a party to include in its
12 memorandum of costs those cost items which are awarded in the
13 discretion of the court and thus *cannot* be entered by the clerk of the
14 court... (italics in original; other emphasis added).

15 Requests for awards of expert fees under FEHA should be made by a separately noticed
16 motion as is done in motions for attorney's fees under the very same sentence and provision in
17 FEHA. *Id.*

18 Therefore, since FEHA expert fees may not be entered pursuant to a memorandum of
19 costs, the Court need go no further on this item, and should tax the entire \$29,615 in expert fees
20 improperly sought from the clerk in the memorandum of costs.

21 **3. Expert Fees Should Be Taxed Or Greatly Reduced Under FEHA**

22 Even if the Court were inclined to examine expert fees at this time, which it should not,
23 those fees should be taxed in their entirety or significantly reduced once plaintiff finally produces
24 detailed invoices of their purported services.

25 First, it must be noted that plaintiff brought two claims, but only one was under FEHA.
26 The jury returned only a general verdict. Plaintiff agreed to a general verdict, which did not
27 require the jury to find in plaintiff's favor on the FEHA claim. Indeed, the evidence on the
28 predicate acts of plaintiff presented under FEHA was weak at best. Plaintiff could not really
specify the particular conduct he opposed or when he communicated such opposition to the City.
As such, plaintiff should not be awarded such costs under FEHA.

1 Even if the Court were inclined to award expert fees prematurely at this stage, which it
2 should not, it must still evaluate whether those expert fees were reasonable or necessary for trial.
3 See e.g. *Jones v. Dumrichob* (1998) 63 Cal.App.4th 1258, 1266 (evaluating whether experts fees
4 awardable under statute were reasonable and necessary).

5 Expert Fees for Paul Kim should not be awarded, or greatly reduced. His testimony was
6 of little to no value in the case as a whole. More importantly, his testimony had no real
7 connection to the FEHA claims. Mr. Kim evaluated only a very limited portion of the record and
8 made limited findings with little credibility. He did not lend his police practices expertise to the
9 FEHA issues surrounding the purported evaluation of minority probationary officers. Therefore,
10 his testimony was of little to no value toward an award under FEHA in this case and these fees
11 should be taxed in its entirety. Moreover, his fee of \$11,600 for attempting to review such a
12 small portion of documents is excessive. Even if the Court were to award some fee, City
13 estimates without seeing invoices that it should be greatly reduced at least 50%.

14 Karen Smith's fees should be reduced by more than half. She admitted to making major
15 calculation errors prior to her deposition in the case such that her figures in some cases were \$1
16 Million too high. She also admitted at trial to obtaining further information from the City and
17 making further last minute changes to her calculations. City should not be charged for the time
18 she spent correcting her own mistakes and incomplete investigation of facts and changing her
19 testimony and calculations prior to trial. City submits that her fees should be taxed. City also
20 questions whether the entirety of Ms. Smith's bill was for trial testimony as opposed to deposition
21 related work, including her correction necessitated thereby, which is not recoverable. *Baker-Hoey*
22 *v. Lockheed Martin Corp.* (2003) 111 Cal.App.4th 592, 602 (expert deposition fees not
23 recoverable as costs).

24 Moreover, the City's objections illustrate the need for plaintiff to bring the request for
25 expert fees as a separately noticed motion. The City should be able to point to specific items or
26 amounts on invoices as being unreasonable and unnecessary and not just guess how much the
27 expert's bills should be reduced.

1 Finally, Dr. Leoni was just a treating physician. He was only designated as a treating
2 expert. [See Tyson Decl., Ex. D, p. 2.] He was relevant as a percipient witness, not as an expert.
3 To the extent that his large bill for his cursory testimony also involves time spent on deposition
4 preparation or the like, it must be taxed. *Baker-Hoey v. Lockheed Martin Corp.* (2003) 111
5 Cal.App.4th 592, 602.

6 **4. Dr. Majcher Deposition Fee Cannot Be Justified**

7 Dr. Stanley Majcher was designated as a treating physician by plaintiff. [Tyson Decl.,
8 Ex. D, p. 2.] As noted above, a treating physician is entitled to his or her reasonable and
9 customary hourly or daily fees for attendance at his or her deposition. However, fees paid to
10 treating physicians at deposition are not recoverable costs. *Baker-Hoey v. Lockheed Martin Corp.*
11 (2003) 111 Cal.App.4th 592, 602. Dr. Majcher never testified at trial, and this fee was paid to
12 him as part of his deposition fee. [Tyson Decl., ¶ 7.] As such, the Court need go no further and
13 should tax this cost.

14 Moreover, even if this particular fee might be recoverable, it should taxed anyway for
15 several reasons. First, it was clearly not reasonable or necessary as plaintiff never called Dr.
16 Majcher to testify at trial. Second, this particular \$545 charge was the result of Dr. Majcher's
17 attempt to extort a higher rate out of counsel. He was paid at his represented rate as a treating
18 physician [Tyson Decl., ¶ 7.], but just a few minutes into his deposition he began objecting to any
19 questions about his examination of plaintiff on the specious ground that everything called for an
20 expert opinion. He became more and more restrictive in refusing to answer questions. [See
21 Tyson Decl., Ex. E, pp. 9:1- 16:25.] Ultimately, Dr. Majcher refused to answer even a simple
22 question about what medicines plaintiff told him he was taking on the improper objection that it
23 called for an expert opinion. [Id., pp. 16:20- 17:3.] As such, plaintiff's counsel elected to pay the
24 difference between his treating physician rate and his higher expert rate in order to avoid a motion
25 prohibiting Dr. Majcher from testifying at trial. After that, Dr. Majcher agreed to answer
26 questions about his examination of plaintiff. [Id., pp.17:8- 18:6.] Plaintiff designated Dr.
27 Majcher as a treating physician and City sought only testimony about that examination. The
28 Court should not endorse Dr. Majcher's troublesome tactics by awarding the cost of that higher

1 rate as a cost in this case.

2 **F. Item 11: Models, Blowups, and Photocopies of Exhibits**

3 In Item 11, plaintiff seeks recovery of \$2,548.47 for trial exhibit duplication. [Tyson
4 Decl., Ex. A, p. 4.] Under the statute, costs of photocopying exhibits are only recoverable if they
5 were “reasonably helpful to assist to aid the trier of fact.” CCP § 1033.5(a)(13). Photocopied
6 exhibits do not meet this standard if not admitted at trial. *Ladas, supra*, 19 Cal.App.4th at 774.
7 Plaintiff only had a total of 20 exhibits admitted at trial for a total of 155 pages. He copied 80
8 exhibits with a total of 1,422 pages. [Tyson Decl., ¶ 8.] Indeed, some of plaintiff’s most lengthy
9 exhibits—certain purported transcriptions of translations of interviews—were never admitted or
10 shown to the jury. In the end, less than 11% of the pages copied were admitted into evidence and
11 can be justified as reasonable and necessary costs. As such, City submits that this item of
12 photocopy trial exhibits must be reduced to 11% of their request-- \$283.33.

13 **G. Item 13: Other**

14 In this category, plaintiff improperly seeks recovery for a hodgepodge of costs that are
15 simply not recoverable under law. All of the listed costs in this Item should be taxed.

16 First, plaintiff seeks recovery of \$186 in messenger fees. This should be disallowed
17 unless party can show that such fees were reasonable or necessary. There is absolutely no
18 explanation offered of the need for such fees which should therefore be taxed. *Nelson, supra*, 72
19 Cal.App.4th at 132.

20 Second, plaintiff seeks recovery of \$52 for transcripts of hearings on motions on August
21 30, 2010 and September 27, 2010. These transcripts were not ordered by the Court [Tyson Decl.,
22 ¶ 9], so they may not be awarded as costs. CCP § 1033.5(b)(5); *Davis v. KGO-T.V., Inc.* (1998)
23 17 Cal.4th 436, 440-442, *Baker-Hoey, supra*, 111 Cal.App.4th 592, 599-600. Indeed, plaintiff
24 admits this when he failed to include them under “Item 9: Court-ordered transcripts” on the
25 memorandum.

26 Similarly, plaintiff seeks award of \$216 for unspecified “Courtcall Appearances.” This is
27 not an allowable expense under law. Moreover, it would appear to be the ultimate example of a
28 cost that is “merely convenient” under CCP § 1033.5(c)(2) and not allowed. City is completely

1 perplexed at the \$7.50 charge for "Los Angeles Superior Court Online" with no explanation. City
2 assumes this is also some convenience charge that should not be passed on to the City.

3 In addition, the \$54.78 charge for Federal Express must also be taxed as such expenses are
4 not recoverable as costs. *Ripley v. Pappadopoulos* (1994) 23 Cal.App.4th 1616, 1627.

5 Finally, this leaves charges of \$1,499.50 for "Transcriptionist for IA interviews" and
6 \$1300.00 for "Interpreter & Certification Fees Re Interviews of David Romero and Jose
7 Alvarenga." Both sizable entries appear to relate to plaintiff's ill-advised attempts to repeatedly
8 attempt to bring into evidence purported transcriptions of translations of IA interviews that
9 ultimately proved fruitless. These are not allowable costs. Furthermore, no matter how
10 analogized, the costs were not reasonably necessary to the conduct of the litigation and the Court
11 should exercise its discretion to tax these costs. These transcription/translations were never
12 admitted into evidence so they were not "reasonably helpful to assist to aid the trier of fact."
13 CCP § 1033.5(a)(13), *Ladas, supra*, 19 Cal.App.4th at 774, they were not ordered prepared by the
14 Court, *see* CCP § 1033.5(b)(5)(transcripts not recoverable costs unless ordered by court) and they
15 were at best part of plaintiff's non recoverable costs of investigation of facts of the case. CCP §
16 1033.5(b)(2) (investigation costs not recoverable).

17 **IV. CONCLUSION**

18 For all the foregoing reasons, the Court should tax \$37,370.47 of the claimed \$49,046.28
19 expenses from plaintiff's memorandum of costs and only award \$11,675.81 to plaintiff as costs.

20 Dated: May 17, 2012

BURKE, WILLIAMS & SORENSEN, LLP

Ronald F. Frank

Robert J. Tyson

21
22
23 By 

Robert J. Tyson

Attorneys for Defendant, City of Burbank

DECLARATION OF ROBERT J. TYSON

I, Robert J. Tyson hereby declare and state:

1. I am an attorney at law duly licensed to practice before all of the Courts of the State of California and am a partner with Burke, Williams & Sorensen, LLP, counsel of record for defendant CITY OF BURBANK ("City"). As such, I have personal knowledge of the facts contained herein and if called as a witness I could and would testify competently to those facts under oath. This Declaration is submitted in support of the City's Motion to Tax Costs.

2. Attached hereto as Exhibit A is a true and correct copy of plaintiff's memorandum of costs served by mail on April 27, 2012.

3. Attached hereto as Exhibit B is a true and correct copy of an e-mail, dated February 28, 2012, sent from lead trial counsel Ron Frank of my office to Greg Smith, copied to me, which states, inter alia, that our office will accept service of process for several witnesses, including Tim Stehr. Attached hereto as Exhibit C is a true and correct copy of a letter dated March 2 from Greg Smith to Mr. Frank acknowledging our acceptance of service and enclosing the trial witness fees and subpoenas for several witnesses including Mr. Stehr. For sake of judicial economy, only the enclosures related to Mr. Stehr are included in the exhibit.

4. Solomon Gresen is an attorney who represents other Burbank Police Officers who have sued the City of Burbank, including other cases in which I have been involved as counsel for the City. He is not an attorney involved in this case. Neither Mr. Gresen nor any of his clients testified at deposition or at trial in this action.

5. I have reviewed our files in this action and have participated in this action since its inception. I have been unable to locate any § 998 settlement offer from plaintiff, and do not remember ever receiving one.

6. Attached hereto as Exhibit D is a true and correct copy of Plaintiff William Taylor's Exchange of Expert Witness Information, which was received by my office in October of 2011.

7. On February 16, 2012, I took the deposition of Dr. Stanley Majcher, who was designated as a treating physician in plaintiff's designation of expert witnesses. I brought a check

LA #4848-1242-0111 v1

- 11 -

NOTICE OF MOTION AND MOTION TO TAX COSTS; MEMORANDUM OF P&A AND TYSON
DECLARATION IN SUPPORT

1 for the amount Dr. Majcher's office and plaintiff's counsel's office had represented as his rate for
2 deposition testimony as a treating physician, including requisite preparation time and gave it to
3 him. Upon meeting Dr. Majcher, his first questions were in what capacity he was being deposed
4 and had been designated. He was clearly unhappy at how he was designated and indicated that
5 his rates for expert testimony were higher. After preliminary testimony about his background and
6 how he came to examine plaintiff, Dr. Majcher began to object to certain questions as calling for
7 expert testimony. I attempted to work around his objections, even though I was only questioning
8 him about his examination and his reported findings therefrom. At one point we went off the
9 record and I discussed with Dr. Majcher the limits of such an objection. Nevertheless, he
10 continued gradually expanding his use of this objection. Eventually, it became clear that Dr.
11 Majcher was not going to answer any more questions when he refused to discuss what medicines
12 plaintiff had told him during his examination that plaintiff was then taking. At this point
13 plaintiff's counsel and I had an off the record conversation where I indicated that I would be
14 moving to bar his testimony at trial. Plaintiff's counsel agreed to pay the difference in rates
15 which Dr. Majcher indicated would total an additional \$545. The deposition then continued with
16 Dr. Majcher's cooperation. Attached hereto as Exhibit E are excerpts from his deposition
17 surrounding the on-the-record discussions of this issue.

18 8. We had all of plaintiff's trial exhibits scanned and sorted onto our Summation
19 Database. That database indicates that only 20 of plaintiff's 80 trial exhibits were admitted into
20 evidence. Plaintiff's proposed trial exhibits totaled 1,422 pages, but only 155 of those pages, less
21 than 11%, were admitted at trial.

22 9. I was very involved in the case in August and September 2010, and believe I
23 attended at least one of the referenced hearings before Judge Wiley for which plaintiff seeks to
24 have the costs of the transcripts awarded as a cost in this case. I can find no order in our records

25 ///

26 ///

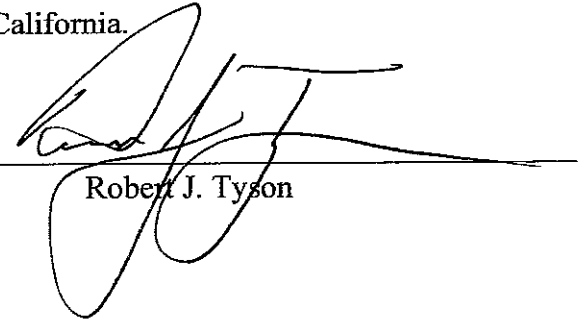
27 ///

28 ///

1 referencing an order by the Court that those hearing transcripts be provided, and do not recall any
2 such order.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Executed on May 17, 2012, at Los Angeles, California.

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8 Robert J. Tyson
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): GREGORY W. SMITH (SBN 134385) LAW OFFICES OF GREGORY W. SMITH 9100 WILSHIRE BOULEVARD, SUITE 345E BEVERLY HILLS, CALIFORNIA 90212 TELEPHONE NO.: (310) 777-7894 FAX NO.: (310) 777-7895 ATTORNEY FOR (Name): Plaintiff WILLIAM TAYLOR	FOR COURT USE ONLY
INSERT NAME OF COURT, JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES - CENTRAL DISTRICT	
PLAINTIFF: WILLIAM TAYLOR DEFENDANT: CITY OF BURBANK, et al.	
MEMORANDUM OF COSTS (SUMMARY)	CASE NUMBER: BC 422 252 DEPT. 50

The following costs are requested:

	TOTALS
1. Filing and motion fees	1. \$ 1,274.87
2. Jury fees	2. \$ 1,261.44
3. Jury food and lodging	3. \$
4. Deposition costs	4. \$ 5,472.80
5. Service of process	5. \$ 1,270.00
6. Attachment expenses	6. \$
7. Surety bond premiums	7. \$
8. Witness fees	8. \$ 30,464.92
9. Court-ordered transcripts	9. \$
10. Attorney fees (enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required)	10. \$
11. Models, blowups, and photocopies of exhibits	11. \$ 2,548.47
12. Court reporter fees as established by statute	12. \$ 3,438.00
13. Other (SEE WORKSHEET)	13. \$ 3,315.78
TOTAL COSTS	\$ 49,046.28

I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

Date: APRIL 26, 2012

GREGORY W. SMITH
(TYPE OR PRINT NAME)


(SIGNATURE)

(Proof of service on reverse)

MEMORANDUM OF COSTS (SUMMARY)

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

MEMORANDUM OF COSTS (WORKSHEET)

1. Filing and motion fees

Paper filedFiling fee

a. COMPLAINT \$ 355.00

b. PITCHESS & DISCOVERY MOTIONS \$ 165.75

c. REPLY BRIEF RE PITCHESS MOTION \$ 16.50

d. STIPULATION & ORDER RE PITCHESS
MOTION \$ 40.00

e. GOVERNMENT CLAIM \$ 53.50

f. OPPOSITION TO MOTION FOR SANCTIONS \$ 154.12

g. ☒ Information about additional filing and motion fees is contained in Attachment 1g.TOTAL 1. \$ 1,274.87

2. Jury fees

DateFee & mileage

a. 11-08-2011 \$ 150.00

b. 03-06-12 THRU 03-09-12 \$ 362.48

c. 03-12-12 THRU 03-15-12 \$ 512.48

d. _____ \$ _____

e. ☐ Information about additional jury fees is contained in Attachment 2e.TOTAL 2. \$ 1,261.44

3. Juror food: \$ _____ and lodging: \$ _____

TOTAL 3. \$ _____

4. Deposition costs

Name of
deponentTakingTranscribingTravelVideo-
tapingSubtotals

a. JOHN MURPHY \$ 641.55 \$ _____ \$ _____ \$ 180.00 \$ 821.55

b. CINDY MAGNANTE \$ 803.30 \$ _____ \$ _____ \$ 538.20 \$ 1,341.50

c. JAMES GARDINER \$ 855.50 \$ _____ \$ 74.00 \$ _____ \$ 929.50

d. MARSHA RAMOS \$ 763.40 \$ _____ \$ _____ \$ _____ \$ 763.40

e. ☒ Information about additional deposition costs is contained in Attachment 4e.TOTAL 4. \$ 5,472.80

(Continued on reverse)

Page 1 of 9

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

5. Service of process

	Name of person served	Public officer	Registered process	Publication	Other (specify)
a.	BURBANK POLICE DEPARTMENT	\$	\$	\$	167.69
b.	CITY OF BURBANK	\$	40.00	\$	
c.	OFFICE OF THE CITY ATTORNEY	\$	\$	\$	248.54

d. ☒ Information about additional costs for service of process is contained in Attachment 5d.

TOTAL 5. \$ 1,270.00

6. Attachment expenses (specify):

6. \$

7. Surety bond premiums (itemize bonds and amounts):

7. \$

8. a. Ordinary witness fees

	Name of witness	Daily fee	Mileage	Total
(1)	CAROL HUMISTON	_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ 39.48
(2)	MICHAEL FLAD	_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ 39.48
(3)	CRAIG VARNER	_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ 154.48
(4)	TIMOTHY STEHR	_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ 41.64
(5)	J.J. PUGLISI	_____ days at _____ \$/day	_____ miles at _____ ¢/mile	\$ 154.48

(6) ☒ Information about additional ordinary witness fees is contained in Attachment 8a(6).

SUBTOTAL 8a. \$ 849.92

(Continued on next page)

Page 2 of 9

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

MEMORANDUM OF COSTS (WORKSHEET) (Continued)

8. b. Expert fees (per Code of Civil Procedure section 998)

<u>Name of witness</u>	<u>Fee</u>
(1) <u>KAREN SMITH</u> _____ hours at \$ _____ /hr \$ <u>14,470.00</u>	
(2) <u>DR. PAUL KIM</u> _____ hours at \$ _____ /hr \$ <u>11,600.00</u>	
(3) <u>DR. SEAN LEONI</u> _____ hours at \$ _____ /hr \$ <u>3,000.00</u>	
(4) <u>DR. STANLEY MAJCHER</u> _____ hours at \$ _____ /hr \$ <u>545.00</u>	

(5) ☐ Information about additional expert witness fees is contained in Attachment 8b(5).SUBTOTAL 8b. \$ 29,615.00

c. Court-ordered expert fees

<u>Name of witness</u>	<u>Fee</u>
(1) _____ hours at \$ _____ /hr \$ _____	
(2) _____ hours at \$ _____ /hr \$ _____	

(3) ☐ Information about additional court-ordered expert witness fees is contained in Attachment 8c(3).SUBTOTAL 8c. \$ TOTAL (8a, 8b, & 8c) 8. \$ 30,464.929. Court-ordered transcripts (specify): 9. \$ 10. Attorney fees (enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required): 10. \$ 11. Models, blowups, and photocopies of exhibits (specify): TRIAL EXHIBIT DUPLICATION 11. \$ 2,548.47

12. Court reporter fees (as established by statute)

a. (Name of reporter): 03-05-12 THRU 03-09-12 Fees: \$ 1,910.00b. (Name of reporter): 03-12-12 THRU 03-14-12 Fees: \$ 1,146.00c. ☒ Information about additional court reporter fees is contained in Attachment 12c.TOTAL 12. \$ 3,438.0013. ☒ Other (specify): SEE ATTACHMENT 13. 13. \$ 3,315.78TOTAL COSTS \$ 49,046.28

(Additional information may be supplied on the reverse)

Page 3 of 9

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

ATTACHMENT (Number): 1g.

(This Attachment may be used with any Judicial Council form.)

FILING AND MOTION FEES CONTINUED**PAPER FILED****FILING FEE**

g - PITCHESS MOTION RE E. ROSOFF	\$40.00
h - PITCHESS MOTION RE J. JETTE	\$40.00
i - OPPOSITION TO REQUEST FOR NEW HEARING RE PITCHESS MOTION, ETC.	\$20.00
j - OBJECTION TO MOTION TO STRIKE & RESPONSE TO OPPOSITION TO PITCHESS MOTION	\$15.00
k - EX PARTE HEARING	\$40.00
l - MOTION TO AMEND	\$40.00
m - PITCHESS MOTION RE BOBB REPORT	\$40.00
n - JOINT STATUS REPORT	\$10.50
o - PITCHESS MOTION RE E. ROSOFF	\$40.00
p - PITCHESS MOTION RE J. JETTE	\$40.00
q - PROPOSED PROTECTIVE ORDER RE PITCHESS MOTIONS	\$20.00
r - OPPOSITION TO AUGMENT AND/OR AMEND EXPERT WITNESS LIST	\$20.00
s - OPPOSITION BRIEFS RE MOTIONS IN LIMINE NOS. 1, 2, & 5	\$64.50
t - PLAINTIFF'S LIST OF STIPULATED FACTS	\$20.00
u - MOTION FOR INJUNCTIVE RELIEF	\$40.00

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 4 of 9

(Add pages as required)

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

ATTACHMENT (Number): 4e.

(This Attachment may be used with any Judicial Council form.)

DEPOSITION COSTS CONTINUEDNAME OF DEPONENTTAKING

- TIMOTHY STEHR	\$968.30
- MICHAEL FLAD	\$648.55

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 5 of 9

(Add pages as required)

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

ATTACHMENT (Number): 5d.

(This Attachment may be used with any Judicial Council form.)

SERVICE OF PROCESS CONTINUED

<u>NAME OF PERSON</u>	<u>REGISTERED PROCESS</u>	<u>OTHER</u>
d - BURKE WILLIAMS & SORENSON		\$295.59
e - RICHARD KREISLER	\$120.00	
f - BALLARD ROSENBERG GOLPER & SAVITT		\$160.43
g - COLLINS COLLINS MUIR & STEWART		\$17.75
h - SOLOMON GRESEN	\$40.00	
i - TIMOTHY STEHR	\$90.00	
j - JANICE LOWERS	\$90.00	

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 6 of 9

(Add pages as required)

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER

BC 422 252

ATTACHMENT (Number): 8a (6)

(This Attachment may be used with any Judicial Council form.)

ORDINARY WITNESS FEE CONTINUED

<u>NAME OF WITNESS</u>	<u>TOTAL</u>
- GERRY MISQUEZ	\$154.48
- SCOTT LACHASSE	\$154.48
- JAMES GARDINER	\$111.40

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 7 of 9

(Add pages as required)

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

ATTACHMENT (Number): 12c.

(This Attachment may be used with any Judicial Council form.)

COURT REPORTER FEES

- 03-15-12

\$382.00

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 8 of 9

(Add pages as required)

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.	CASE NUMBER: BC 422 252
--	----------------------------

ATTACHMENT (Number): 13.

(This Attachment may be used with any Judicial Council form.)

OTHER CONTINUED

- MESSENGER FEES	\$186.00
- TRANSCRIPTIONIST RE IA INTERVIEWS	\$1,499.50
- COURT REPORTER TRANSCRIPTS RE HEARINGS ON 08/30/10 AND 09/27/10	\$52.00
- COURTCALL APPEARANCES	\$216.00
- LOS ANGELES SUPERIOR COURT ONLINE	\$7.50
- FEDERAL EXPRESS	\$54.78
- INTERPRETER & CERTIFICATION FEES RE INTERVIEWS OF DAVID ROMERO AND JOSE ALVARENGA	\$1,300.00

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 9 of 9

(Add pages as required)

SHORT TITLE: WILLIAM TAYLOR v. CITY OF BURBANK, et al.

CASE NUMBER:

BC 422 252

PROOF OF ☒ MAILING ☐ PERSONAL DELIVERY

1. At the time of mailing or personal delivery, I was at least 18 years of age and not a party to this legal action.
2. My residence or business address is (specify): 9100 WILSHIRE BOULEVARD, SUITE 345E, BEVERLY HILLS, CALIFORNIA 90212
3. I mailed or personally delivered a copy of the *Memorandum of Costs (Summary)* as follows (complete either a or b):
 - a. ☒ Mail. I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope AND
 - (a) ☐ deposited the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - (b) ☒ placed the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows: **SEE ATTACHED MAILING LIST.**
 - (a) Name of person served: **SEE ATTACHED MAILING LIST.**
 - (b) Address on envelope: **SEE ATTACHED MAILING LIST.**
 - (c) Date of mailing: **APRIL 27, 2012**
 - (d) Place of mailing (city and state): **BEVERLY HILLS, CALIFORNIA**
 - b. ☐ Personal delivery. I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:
 - (3) Date delivered:
 - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: APRIL 27, 2012

SELMA FRANCIA

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA)
3)
4 COUNTY OF LOS ANGELES)

5 I am employed in the County of Los Angeles, State of California. I am over the age
6 of 18 years of age, and am not a party to the within action; my business address is 9100
7 Wilshire Boulevard, Suite 345E, Beverly Hills, California 90212.

8 On the date hereinbelow specified, I served the foregoing document, described as
9 set forth below on the interested parties in this action by placing true copies thereof
10 enclosed in sealed envelopes, at Beverly Hills, addressed as follows:

11 DATE OF SERVICE : April 27, 2012

12 DOCUMENT SERVED : MEMORANDUM OF COSTS (SUMMARY &
13 WORKSHEET)

14 PARTIES SERVED : SEE ATTACHED SERVICE LIST.

15 XXX (BY REGULAR MAIL) I caused such envelope(s) with postage thereon fully prepaid
16 to be placed in the United States mail at Beverly Hills, California. I am "readily
17 familiar" with firm's practice of collection and processing correspondence for
18 mailing. It is deposited with U.S. postal service on that same day in the ordinary
19 course of business. I am aware that on motion of party served, service is
20 presumed invalid if postal cancellation date or postage meter date is more than one
21 day after date of deposit for mailing in affidavit.

22 XXX (BY ELECTRONIC MAIL) I caused such document to be electronically mailed to
23 Christopher Brizzolara, Esq. at the following e-mail address:
24 samorai@adelphia.net.

25 XXX (STATE) I declare under penalty of perjury under the laws of the State of California
26 that the above is true and correct.

27 — (FEDERAL) I declare that I am employed in the office of a member of the bar of this
28 court at whose direction the service was made.

EXECUTED at Beverly Hills, California on April 27, 2012.

Selma I. Francia

SERVICE LIST

WILLIAM TAYLOR v. CITY OF BURBANK
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. BC 422 252

Christopher Brizzolara, Esq.
1528 16th Street
Santa Monica, California 90404
(By Electronic Mail Only)

Ronald F. Frank, Esq.
Robert J. Tyson, Esq.
Burke Williams & Sorenson LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071-2953

Amelia Ann Albano, City Attorney
Carol A. Humiston, Sr. Asst. City Atty.
Office of the City Attorney
City of Burbank
275 East Olive Avenue
Post Office Box 6459
Burbank, California 91510

Linda Miller Savitt, Esq.
Philip L. Reznik, Esq.
Ballard Rosenberg Golper & Savitt LLP
500 North Brand Boulevard, 20th Floor
Glendale, California 91203-9946

Tyson, Robert J.

From: Frank, Ronald F.
Sent: Tuesday, February 28, 2012 12:21 PM
To: 'GrgrySmth@aol.com'; 'Selma Francia'
Cc: Linda C. Miller Savitt; Kay, Tony; Tyson, Robert J.
Subject: Trial Witnesses and Acceptance of Service of Subpoenas for Trial

Attachments: Picture (Metafile)

FYI, it looks like Judge Segal is stuck in a trial through at least part of next week so we are not likely to start Monday. We'll find out more tomorrow at the FSC.

Janice Lowers can testify at trial pursuant to the subpoena you served on her during certain time windows, depending on when the trial starts. I have her schedule so we can discuss that and reach an on-call agreement for her to testify during your case in chief. I have been authorized to accept service of trial subpoenas (upon tender of the proper witness fees and such and subject to a minimum of 36 hours on-call notice) for the following persons so far: James Gardiner (needs mileage fee from San Luis Obispo and in light of the distance 48 hours notice would be advisable), Tim Stehr, JJ Puglisi, Gerry Misquez, Craig Varner, and Scott LaChasse. If you truly intend to subpoena Carol Humiston and/or Juli Scott, I will likely move to quash but let me know and I will see about getting their blessings to accept service as well.

RFF

Ronald F. Frank
Partner



BURKE, WILLIAMS & SORENSON, LLP
444 South Flower Street
Suite 2400
Los Angeles, CA 90071
213.236.0600 phone
213.236.2700 fax
213.236.2840 direct
rfrank@bwslaw.com
www.bwslaw.com

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LAW OFFICES OF
GREGORY W. SMITH
9100 WILSHIRE BOULEVARD
SUITE 345E
BEVERLY HILLS, CALIFORNIA 90212
TELEPHONE (310) 777-7894 • (213) 385-3400
FACSIMILE (310) 777-7895

March 2, 2012

VIA PICK-UP BY MESSENGER FROM
BURKE WILLIAMS & SORENSON

Ronald F. Frank, Esq.
Burke Williams & Sorenson LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071-2953

Re: **William Taylor v. City of Burbank**
Los Angeles County Superior Court Case No. BC 422 252

Dear Mr. Frank:

Pursuant to your email dated February 28, 2012, enclosed herewith are trial subpoenas with individual witness fee payments for the following witnesses on whose behalf you have been authorized to accept service of process in the above matter:

- James Gardiner (witness fee: \$111.40)
- Timothy Stehr (witness fee: \$41.64)
- J.J. Puglisi (witness fee: \$154.48)
- Gerry Misquez (witness fee: \$154.48)
- Craig Varner (witness fee: \$154.48)
- Scott LaChasse (witness fee: \$154.48)

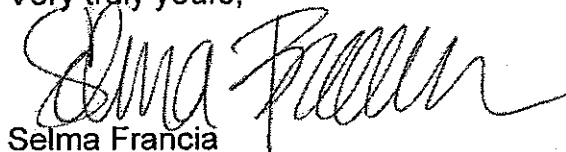
Secondly, per my conversation with Tony Kay of your office today, he advised that you have been authorized to accept service of a trial subpoena for witness Carol Humiston and requested that we provide a subpoena and witness fee payment for Ms. Humiston which is also enclosed herewith. Furthermore, Tony also requested that we provide a witness fee for Michael Flad which is enclosed with this correspondence as well.

Finally, enclosed herewith is your set of Plaintiff's trial exhibits in binders which consist of Volumes 1 through 3.

Re: William Taylor v. City of Burbank
Ronald F. Frank, Esq.
March 2, 2012
Page Two

Should you have any questions regarding the above matters, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Selma Francia', written in a cursive style.

Selma Francia
Paralegal

Enclosures

cc: Christopher Brizzolara, Esq.
Carol A. Humiston, Sr. Asst. City Atty.
Linda Miller Savitt, Esq.

LAW OFFICES OF GREGORY W. SMITH
OPERATING ACCOUNT
 9100 WILSHIRE BLVD., SUITE 345E
 BEVERLY HILLS, CA 90212
 (310) 777-7894

3/2/2012

PAY TO THE ORDER OF Timothy Stehr

\$ **41.64

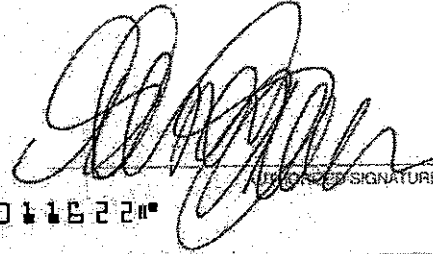
Forty-One and 64/100

DOLLARS

Timothy Stehr

MEMO

W. Taylor v. City of Burbank/Trial Witness Fee



PRINTED SIGNATURE

⑈008263⑈ ⑆122243761⑆ 2100011622⑈

LAW OFFICES OF GREGORY W. SMITH

OPERATING ACCOUNT

8263

Timothy Stehr

3/2/2012

W. Taylor v. City of Burbank/Trial Witness Fee

41.64

1st Century Bank-Ope W. Taylor v. City of Burbank/Trial Witness Fee

41.64

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): GREGORY W. SMITH (SBN 134385) LAW OFFICES OF GREGORY W. SMITH 9100 WILSHIRE BOULEVARD, SUITE 345E BEVERLY HILLS, CALIFORNIA 90212		FOR COURT USE ONLY
TELEPHONE NO.: (310) 777-7894	FAX NO.: (310) 777-7895	
ATTORNEY FOR (Name): Plaintiff WILLIAM TAYLOR		
NAME OF COURT: SUPERIOR COURT OF THE STATE OF CALIFORNIA STREET ADDRESS: 111 NORTH HILL STREET MAILING ADDRESS: 111 NORTH HILL STREET CITY AND ZIP CODE: LOS ANGELES, CALIFORNIA 90012 BRANCH NAME: CENTRAL DISTRICT		
PLAINTIFF/PETITIONER: WILLIAM TAYLOR		CASE NUMBER: BC 422 252
DEFENDANT/RESPONDENT: CITY OF BURBANK, et al.		
CIVIL SUBPOENA For Personal Appearance at Trial or Hearing		

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):
TIMOTHY STEHR

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below
UNLESS you make an agreement with the person named in item 2:

a. Date: MARCH 6, 2012	Time: 9:00 A.M.	<input checked="" type="checkbox"/> Dept.: "50"	<input type="checkbox"/> Div.:	<input type="checkbox"/> Room:
b. Address: 111 NORTH HILL STREET, DEPT. "50" LOS ANGELES, CALIFORNIA 90012				

2. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name of subpoenaing party or attorney:
GREGORY W. SMITH (SBN 134385)

b. Telephone number: (310) 777-7894

3. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 2.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: MARCH 2, 2012

GREGORY W. SMITH (SBN 134385)
(TYPE OR PRINT NAME)

(SIGNATURE OF PERSON ISSUING SUBPOENA)

ATTORNEYS FOR PLAINTIFF
(TITLE)

Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the date on which you are to appear. Contact the clerk's office or go to www.courtinfo.ca.gov/forms for Request for Accommodations by Persons With Disabilities and Order (form MC-410). (Civil Code, § 54.8.)



(Proof of service on reverse)

Page 1 of 2

1 GREGORY W. SMITH (SBN 134385)
2 **LAW OFFICES OF GREGORY W. SMITH**
3 9100 Wilshire Boulevard, Suite 345E
4 Beverly Hills, California 90212
5 Telephone: (310) 777-7894
6 (213) 385-3400
7 Telecopier: (310) 777-7895

8 CHRISTOPHER BRIZZOLARA (SBN 130304)
9 1528 16th Street
10 Santa Monica, California 90404
11 Telephone: (310) 394-6447
12 Telecopier: (310) 656-7701

13 Attorneys for Plaintiff
14 WILLIAM TAYLOR

15 **UNLIMITED JURISDICTION**
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES**

18 WILLIAM TAYLOR,

19 Plaintiff,

20 vs.

21 CITY OF BURBANK and DOES 1 through
22 100, inclusive,

23 Defendants.

24) CASE NO. BC 422 252

25) [Assigned to the Hon. John Shepard
26) Wiley, Jr., Judge, Dept. "50"]

27) **PLAINTIFF'S DESIGNATION OF**
28) **EXPERT WITNESSES**

29) Action Filed: September 22, 2009
30) FSC: November 23, 2011
31) Trial: December 6, 2011

32 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

33 Plaintiff, WILLIAM TAYLOR, pursuant to Code of Civil Procedure section 2034.210,
34 et seq., hereby submits his list of expert witnesses whom he expects will be called to
35 testify at the time of trial in this matter.

36 A. TREATING AND EXAMINING PHYSICIANS NOT RETAINED BY THIS

37 PLAINTIFF: Plaintiff anticipates calling his treating and examining physicians or other

1 medical care providers. Said individuals are not experts as described in section
2 2034.210(b), but will be asked expert questions in addition to questions concerning their
3 percipient medical observations of the care, treatment, causation of injury, and/or
4 examination they provided or observed regarding Plaintiff, including but not limited to, his
5 or her own compliance with the standard of practice in rendering that care. Relative to the
6 health care providers included under this category, said expert opinions are expected to
7 include, but are not limited to, the following subjects: diagnosis, prognosis, disability,
8 causation, findings on examination, treatment, tests, need for future treatment, medical
9 billings, propriety of medical services, propriety of medical charges, injuries, damages,
10 and any and all related matters.
11

12 1. Sean Leoni, M.D., 16661 Ventura Boulevard, Suite 604, Encino, California
13 telephone no. (818) 788-8213.
14

15 2. Dr. Stanley Majcher, M.D. 1028 East Walnut Creek Parkway, Suite C, West
16 Covina, California 91790, telephone no. 626-919-5888.
17

18 B. EXPERTS RETAINED BY THIS PLAINTIFF: Plaintiff's designation of
19 the following experts is based upon allegations or contentions made known to them by
20 Plaintiff or other Defendants. Should new allegations be made, Plaintiff reserves the right
21 to designate and call at the time of trial of this matter, such further experts as Plaintiff
22 deems advisable or appropriate.
23

24 1. Karen Smith, M.B.A.; Ms. Smith is an economist. Ms. Smith maintains her
25 place of business at 2777 Lombardy Road, San Marino, California 91108, Tel. (626) 796-
26 4040. Please refer to the declaration of Gregory W. Smith and the attached Curriculum
27 Vitae for further particulars concerning this witness.
28

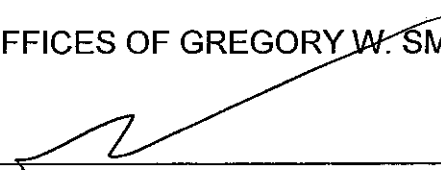
2. Dr. Paul M. Kim; Dr. Kim is a retired law enforcement officer. Dr. Kim is a

1 former police officer. Therefore, his address is confidential, but he may be contacted
2 through Plaintiff's counsel. Please refer to the declaration of Gregory W. Smith and the
3 attached Curriculum Vitae for further particulars concerning this witness.
4

5
6 Dated: October 17, 2011

LAW OFFICES OF GREGORY W. SMITH

7 By:

8 
9 GREGORY W. SMITH
Attorneys for Plaintiff
WILLIAM TAYLOR
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“DECLARATION”

DECLARATION OF GREGORY W. SMITH

I, Gregory W. Smith, declare as follows:

1. I am an attorney of law duly licensed to practice law in the State of California and I am one of the attorneys of record for Plaintiff William Taylor herein.

2. This declaration is made of my own knowledge and if called to testify concerning the contents of this declaration, I could and would so testify.

3. Ms. Karen Smith, M.B.A. is an economist. Ms. Smith has been retained and has agreed to testify on behalf of the Plaintiff and will be prepared to render expert opinions and provide expert testimony on economic matters placed in issue within the ambit of her expertise.

4. Ms. Smith is expected to express expert opinions concerning, but not limited to, the following subjects: precise calculation and determination of Plaintiff's loss of income claims and benefits, and regarding Plaintiff's loss of earning capacity.

5. In addition, Ms. Smith will provide expert testimony concerning any and all opinions expressed by any other economist designated by other parties to this lawsuit. Ms. Smith is expected to provide rebuttal testimony to any opinions of the experts of Defendants with which she does not agree. Ms. Smith's rate for deposition is \$400.00 per hour. Her fees for trial are in the amount of \$400.00 per hour.

7. Ms. Smith has previously testified as an expert witness. Attached hereto and designated as Exhibit "1" is a true and correct copy of Karen Smith's Curriculum Vitae.

8. Mr. Paul Kim is a retired Commander of the Los Angeles Police Department and has extensive knowledge in the area of internal affairs investigations regarding law enforcement. Mr. Kim has been retained and has agreed to testify on behalf of the Plaintiff and will be prepared to render expert opinions and provide expert testimony on

matters concerning the original Porto's IA investigations conducted by the Burbank Police Department, the subsequent investigation conducted by Mr. Gardiner, and the termination of William Taylor.

9. Mr. Kim is expected to express expert opinions concerning, but not limited to, the following subjects: (1) All aspects of the internal affairs investigation conducted in Porto's 1 & 2; (2) the proper procedures and techniques for conducting an internal affairs investigations; (3) the proper way to ensure a fair and reasonable investigation in an internal affairs investigation; (4) investigative techniques used to investigate witnesses and/or subjects of an internal affairs investigation; (5) the proper use of photo lineups in internal affairs investigative procedures such as the one used in Porto's 1; (6) the proper use of witness versus focus interviews in an internal affairs investigation such as the one used in Porto's 1; (7) the purpose of Skelly procedures; (8) any improprieties in the Skelly procedure used by the City of Burbank in the termination of Bill Taylor; (9) improprieties in the investigation conducted by Gardiner during Porto's 2; (10) Department and IA oversight in the Porto's 1 and 2 investigations; (11) the consequences of offering immunity to a witness in an internal affairs investigation; (12) the difference between an unfounded versus a sustained complaint; and (13) whether Gardiner conducted an appropriate IA investigation concerning Plaintiff's termination.

10. Attached hereto and designated as Exhibit "2" is a true and correct copy of Mr. Paul Kim's Curriculum Vitae.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17th day of October, 2011.

GREGORY W. SMITH

EXHIBIT "1"

ADAMSMITH ECONOMICS

2777 LOMBARDY ROAD
SAN MARINO, CALIFORNIA 91108-1518

MIKE ADAMS, PH.D.
KAREN SMITH, M.B.A.

626.796.4040

Facsimile: 626.356.1777

RESUME OF KAREN SMITH

EDUCATION

Masters of Business Administration
Concentration in Finance and Business Economics
University of Southern California
December 1989

Bachelor of Arts in Management Science and Applied Mathematics
Minor in History
University of California, San Diego
August 1984

CONSULTING EXPERIENCE

Economic consultant to the U.S. Justice Department, State of California, State of Hawaii, City of Los Angeles, County of Los Angeles and the City of Santa Monica. Research and testimony on behalf of defendants and plaintiffs in cases of real estate, business litigation, personal injury, wrongful termination, wrongful death and family law.
1985 to Present.

Qualified as an expert witness in California Superior Court, State of Hawaii and United States Federal Court.

Assistant Vice President and Senior Economist, IBAR Settlement Company, Inc.
Involved with management decisions and the supervision of four economists.
1985 to 1990.

CURRENT EMPLOYMENT

Economist, AdamsSmith Economics

ASSOCIATIONS

American Economic Association
National Association of Business Economists
National Association of Forensic Economics
Beta Gamma Sigma

EXHIBIT “2”

DR. PAUL KIM

SUMMARY

- ❑ Police Practices Expert Witness and Consultant.
- ❑ B.S. with Honors in Public Management, Pepperdine University
- ❑ Masters in Public Administration, Pepperdine University
- ❑ Doctorate in Public Administration, University of La Verne
- ❑ Advanced Management Certificate: the highest certification of police executives based on levels of education and qualified work experience by State of California Police Officer Standardization and Training (POST).
- ❑ Former Commanding Officer, Los Angeles Police Department, Training Group: Operated recruit academies and in-service training schools.
- ❑ Retired at the highest civil service rank (a general staff rank with one star) with a proven track record of advancement and accomplishments with the Los Angeles Police Department and a graduate of FBINA, 172nd Class: Experience as an Internal Board of Rights Hearing Officer and a permanent member of the Department Use of Force Review Board
- ❑ Nine years of experience as a Commanding Officer
- ❑ Nine years of Police Supervisory Experience
- ❑ Former Commissioner, Los Angeles County Criminal Justice Procedures Commission
- ❑ Former President, Board of Transportation Commissioners, City of Los Angeles.
- ❑ Former Chairperson of the Justice for Murdered Children -- a group for parents for unsolved murders involving younger victims
- ❑ Initiated the "Stop the Violence" movement, which became a community mobilization tool.
- ❑ Initiated the "Good Deed" Lead: employee recognizing other employees for extra service and small acts of kindness
- ❑ Recipient of Quality of Service Management Achievement Award, LAPD

- ❑ Former Board member, Parker Foundation, LAPD
- ❑ Recipient of the Martin Luther King Parade Committee's Unity Leadership Award
- ❑ Former Chair, Los Angeles Area Chamber of Commerce, International Trade & Investment Committee
- ❑ Member, Community Advisory Board, Hollywood Presbyterian Hospital
- ❑ Former Board Member, Coro Leadership Foundation of Southern California
- ❑ Mayoral Transition Team member, 2005, City of Los Angeles
- ❑ Former Columnist for Radio Korea, the largest Korean language radio station outside Korea, and news columnist for TVK-24, Asian-American cable T.V. network
- ❑ Recipient of the Republic of Korea Presidential Dong Baek Medal for the public service
- ❑ Adjunct Associate Professor, Los Angeles City College
- ❑ Director at Large, 1st Marine Division Association; Honorably Discharged Captain, U.S. Marine Corps

EXPERIENCE

- ❑ (2005 – Present) **Police Procedures Consultant/ Expert Witness**
- ❑ (2005 - 2008) **President, City of Los Angeles, Board of Transportation Commissioners and Consultant**
- ❑ (2003 – 2005) **Commanding Officer, Training Group, Los Angeles Police Department (LAPD)**
 - ▶ Provided oversight and leadership to department-wide training.
 - ▶ Managed three police academies, in-service training and interactive distance learning programs.
 - ▶ Responsible for training components contained in the Federal Consent Decree, the most significant police reform package including adjudication of officer-involved shooting cases and automated problem employee early warning program.

- ▶ Managed administrative, technical, and legal mandates of various government regulations for police and civilian employee training.
- ▶ Implemented police training audit systems to ensure consistency.

▶ **(2002 – 2003)**

Acting Commanding Officer, Operations-West Bureau

- ▶ Served as Acting Commanding Officer of Operations-West Bureau, leading six police divisions; Hollywood, Pacific, LAX (Airport), Wilshire, West Los Angeles, and West Traffic.
- ▶ Provide proactive oversight for six police divisions providing police service for over a million people.
- ▶ Reviewed and approved internal disciplinary investigations including use of force cases.
- ▶ Initiated police service access seminars and citizen police academies to include previously disfranchised communities to harvest and mobilize their talents.
- ▶ Initiated employee recognition program, "Good Deed Memo," to encourage acts of extra effort and sensitivity by employers.
- ▶ Implemented the Department's first Consent Decree Coordinator Program.

□ **Captain III (2000 – 2002)**

Area Commanding Officer, Harbor Community Police Station

Plan, develop, and implement strategies for effective leadership and continuous improvement in the following areas:

- ▶ **Community Safety**
 - Area Commanding Officer of a Harbor Area during the 9-11 incident and responsible for initiating a federal and local anti-terrorism task force.
 - Reviewed and approved internal disciplinary cases including use of force cases.
 - Initiated Fear Reduction Team to focus on community safety perception issues.
 - Initiated the first Regional Emergency Response Plan for the Port Community.

- Initiated a "gang" table where detectives focused on all crimes involving gang members and implemented an integrated problem-solving tactics.
- Established "Stop the Violence" Block public rallies, public street community fair events, at the site of murders and hate crimes to reach people who normally do not participate in police-sponsored events.
- Created Anti-Tagger Detail to gather gang intelligence and to reduce fear in the community.
- Initiated Harbor City and Wilmington Gang Injunction process to deter gang influence.

► **Community Mobilization**

- Initiated for Community-Police Advisory Board (C-PAB) work teams on youth, traffic, crime and quality of life issues; created the only Spanish-speaking C-PAB work team in the City.
- Instituted new website to communicate with the public.
- Introduced Community Action Network (CAN) brochures,
- Initiated "Storm the Bridge" fundraiser for the station youth programs to promote gang intervention.
- Selected as the 2001 Wilmington Community Parade Grand Marshall for the recognition in Spanish-speaking neighborhoods.
- Selected for the Peace Builder's Award, by Toberman Settlement House, Inc. in recognition for working with gangs and their family members to stop retaliatory shootings.
- Initiated the regular communication sessions for surviving family members of unsolved homicide victims.

► **Employee Training/Morale/Productivity**

- Established Vertical Staff meetings, personally communicating with officers and civilian employees at all levels.
- Established "Workplace Harmony Committee" to promote acceptance of differences in people.

- Implemented a "Command Thank You" note program to improve employee productivity.
- Established Local Chapter of 10851 Club to recognize officers for grand theft auto arrests and 12020 Club to recognize officers for gun arrests.

□ **Captain II (1998 – 2000)**

Commanding Officer of West Traffic Division (WTD)

Planned, developed, and implemented strategies for the effective internal management and continuous improvements in the following areas:

► **Community Safety**

- Established Bureau-wide Traffic Enforcement Task Force, with all four patrol divisions within the Bureau, to better serve the public and to increase traffic safety.

► **Community Mobilization**

- Developed the first C-PAB for a Traffic Division and sponsored a Bureau-wide traffic problem-solving summit.
- Increased bilingual positions from 15 in 1998, to 38 in 1999 to provide more services in the Spanish, Korean, Armenian and Japanese languages.

► **Personnel Training/Morale**

- Created Good Deed Lead, civilian and sworn employee's formal recognition by other employees for building good will within the community as a positive reinforcement tool to empower employees.
- Developed the "Audio Mentoring" tape program to capture retired employees' professional advice as a mentoring tool for supervisors and officers.
- Selected the Department's first female Motor Sergeant.
- Published a Divisional Newsletter for traffic officers.
- Removed Motors from the "Queue" to focus their efforts on proactive traffic enforcement strategies and to increase accountability.
- Implemented a structured employee orientation program.

- Established Area Traffic Coordinator Council to secure cooperation among patrol divisions.

► **Other Major Accomplishments**

- Systemized the process of accepting, investigating, and categorizing community traffic complaints and feedback procedures.
- Initiated an application for funding a computerized traffic data analysis system with the State of California Office of Traffic Safety.
- Planned and implemented a rapid expansion program to increase WTD staffing level.
- Increased Reserve Officer Corps from nine to thirty-six; conducted four weekly traffic task force operations each month (never done before), significantly increasing its effectiveness; initiated a newsletter for Reserves to increase recruitment and retention.

□ **Police Captain I (1997 – 1998)**

Commanding Officer of West Los Angeles Operations Support Division

Planned, developed, and implemented the activities of supervisors, officers, and civilians to better serve public needs.

- Successfully handled a series of major demonstrations associated with the O.J. Simpson trial, UCLA, and the Federal Building by developing a cadre of highly trained supervisors, officers, and civilians.

□ **Police Captain I (1996 – 1997)**

Commanding Officer of Pacific Detectives

- Completed the Department's Pilot Study of providing command focus on improving detective performance and service.

□ **Police Captain I (1996 – 1997)**

Commanding Officer of Pacific Patrol Division

- Implemented a computerized tracking system for projects and personnel complaint investigations.

- **Police Lieutenant II (1994 – 1996)**
Internal Affairs Division
 - ▶ Appointed as Officer-In-Charge (OIC) of Internal Surveillance Detail (ISD); planned and implemented a series of changes to expand the unit's mission to include special operations such as undercover and integrity sting; proposed and implemented changes to Special Operations Section (SOS) and incorporated more proactive missions to ensure police integrity.
 - ▶ Initiated and managed a significant police corruption case involving multi-agency effort: planned and implemented a series of surveillance and undercover strategies to identify, arrest, and convict involved police personnel and other government employees.

- **Police Lieutenant II (1993 – 1994)**
Adjutant to Bureau Commanding Officer
 - ▶ Reviewed use of force and disciplinary cases from six police divisions serving over 1 million residents.
 - ▶ Planned and implemented a uniform system for fact sheet investigations.

- **Police Lieutenant I (1991 – 1992)**
Officer in Charge (OIC) of General Investigations, Wilshire Detectives
 - ▶ Supervised divisional investigators
 - ▶ Planned and implemented a formation of the Korea Town Crime Investigations Unit (KCIU) to provide better investigative service to a bilingual community.
 - ▶ Initiated a major foreign exchange fraud case involving more than over 200 victims and a \$12 million loss; supervised a team of investigators who arrested and convicted the suspect of multiple felony counts.

- **Police Lieutenant I (1989 – 1991)**
Watch Commander, Wilshire and Van Nuys Patrol Divisions
- **Police Sergeant II (1987 – 1989)**
Newton Area Vice Supervisor

- **Police Sergeant I (1986 – 1987)**
Special Problems Unit Sergeant, Newton Area

- ▶ Proposed and implemented a biweekly buy/bust (narcotics undercover) operation which reduced narcotics activities at age-old chronic problem gang locations.
- ▶ Formulated a system to record quality of life problem locations and took concrete actions to reduce community members' and business owners' fear (before community policing was well known).
- **Police Sergeant I (1985 – 1986)**
Field Supervisor, Newton and Hollywood Patrol Divisions
 - ▶ Provided field supervision of uniformed patrol personnel.
- **Detective I (1981 – 1985)**
Narcotics Division
 - ▶ Initiated and completed the first Local Agency narcotics asset forfeiture case. Case was presented in CNOA magazine article after the appeals court upheld the conviction in the trial court.
 - ▶ Developed intelligence on major violators.
 - ▶ Initiated and completed significant "China White Heroin" cases.
- **Senior Lead Officer (SLO) – (1979 – 1981)**
Asian Task Force
 - ▶ Initiated and implemented a proposal to create a bilingual police store front operation at 8th Street and Irolo.
 - ▶ Team Leader for Investigators
 - ▶ Worked with IRS/CID, FBI and DEA on Asian gangs/organized crime cases.
- **Police Officer, Rampart Uniformed Patrol and Traffic (1978 – 1979)**
Recruit Officer, Police Academy (1977)
 - ▶ Recruit Class Drill Instructor (DI), No. 1 in academics, No. 2 in overall class standing
- **Police Officer, La Habra Police : Uniformed Patrol and Traffic (1976)**

EDUCATION

- ❑ University of La Verne
Doctorate in Public Administration 1997
- ❑ Pepperdine University
Masters in Public Administration 1979
B.S. with honors in Public Management 1975
- ❑ Training (partial list): FBI National Academy 172nd Session, West Point Leadership Program and Leadership-Southern California

MILITARY SERVICE

- ❑ Honorably Discharged as Captain, U.S. Marine Corps (1975)

AFFILIATIONS

- ❑ Former Chair, Justice for Murdered Children
- ❑ Former Board Member, C.O.R.O Leadership Foundation
- ❑ LAPD Command Officers Association, Los Angeles County Peace Officers Association, California Peace Officers Association, Municipal Motorcycle Officers Association, Police Executive Research Forum.
- ❑ Director at large, USMC 1st Marine Division Association.
- ❑ Former Director, William H. Parker Foundation (LAPD).
- ❑ Advanced and Management Police Officer Standard and Training (POST) certificate by State of California.
- ❑ Police Commission Language Policy Task Force, Charter member; represented the Department with American Civil Liberty Union (ACLU), Mexican American Legal and Defense Fund (MALDEF), and Pacific Asian Legal Center.
- ❑ Charter President, Law Enforcement Association for Asian Pacific (LEAAP)
- ❑ Rotary International – Charter Secretary, Korea Town Chapter, Los Angeles

COMMUNITY PARTICIPATION

- ❑ California Community College Board of Governors – former member, appointed by the Governor with State Senate Confirmation; participated in statewide policy making with responsibilities affecting 107 community college campus locations and over one million students; State Chair for Vocational Education including police academies and Student Equity Committees.
- ❑ Los Angeles County Commission on Judicial Procedures – Member, working with appointed and elected leaders from the bench, County Public Defender, and District Attorney to formulate policy recommendations to improve efficiency.
- ❑ Korea Town Youth and Community Center – Former Member of the Board.
- ❑ News Columnist for TV-K 24, cable TV Network.
- ❑ Radio Commentator on public safety issues for 93.5 FM and Radio Korea.

AWARDS

- ❑ Over 300 medals, certificates, awards and commendations from the Governor, State Assembly members, U. S. Senators, Mayor of Los Angeles, Los Angeles City Council members, Los Angeles County Board of Supervisors, President of Republic of Korea, Seoul Metropolitan Government, Los Angeles County District Attorney, Board of Governors for California Community College System, Lions Club, Rotary Club, and most importantly, community members.

Dong Baek Presidential Medal for public service, the highest public service medal from the President of Republic of Korea, for building multi ethnic cooperation in Los Angeles.

HOBBY

- ❑ Hiking
- ❑ Researching military history and strategy

PERSONAL PHILOSOPHY

- ❑ I am a strategic thinker who is committed to continuous learning.

PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is 9100 Wilshire Boulevard, Suite 345E, Beverly Hills, California 90212.

On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action by placing the original and true copies thereof enclosed in sealed envelopes, at Beverly Hills, addressed as follows:

DATE OF SERVICE : October 17, 2011

DOCUMENT SERVED : **PLAINTIFF'S DESIGNATION
OF EXPERT WITNESSES**

PARTIES SERVED : **SEE ATTACHED SERVICE LIST.**

XXX (BY REGULAR MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Beverly Hills, California. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

XXX (BY ELECTRONIC MAIL) I caused such document to be electronically mailed to **Christopher Brizzolara, Esq.** at the following e-mail address: samurai@adelphia.net.

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Beverly Hills, California on October 17, 2011.

Selma I. Francia

SERVICE LIST

WILLIAM TAYLOR v. CITY OF BURBANK
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. BC 422 252

Christopher Brizzolara, Esq.
1528 16th Street
Santa Monica, California 90404
(By Electronic Mail Only)

Ronald F. Frank, Esq.
Robert J. Tyson, Esq.
Burke Williams & Sorenson LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071-2953
(Original)

Dennis A. Barlow, City Attorney
Carol A. Humiston, Sr. Asst. City Atty.
Office of the City Attorney
City of Burbank
275 East Olive Avenue
Post Office Box 6459
Burbank, California 91510

Linda Miller Savitt, Esq.
Philip L. Reznik, Esq.
Ballard Rosenberg Golper & Savitt LLP
500 North Brand Boulevard, 20th Floor
Glendale, California 91203-9946

1 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3
4

5 WILLIAM TAYLOR,

6 Plaintiff,

7 vs.

8 CITY OF BURBANK, and DOES

9 1 through 100, inclusive,

10 Defendants.
11
12

**CERTIFIED
TRANSCRIPT**

No. BC422252

Volume I

13 DEPOSITION OF STANLEY J. MAJCHER, M.D., F.A.C.P.

14 Glendale, California

15 Thursday, February 16, 2012

16 Volume I
17
18
19
20

21 Reported by:

22 PAMELA S. KRISTJANSSON

23 CSR No. 8809

24 Job No: 134009

25 PAGES: 1 - 39

Page 1

1 A. No.

2 Q. Can you just -- I believe you testified
3 already you saw Bill Taylor as an Agreed Medical
4 Examiner. Can you briefly explain for the record your
5 role in serving as an Agreed Medical Examiner in a
6 Workers' Comp case?

7 A. I evaluate the patient regarding
8 work-related injuries, and then establish diagnoses,
9 recommendations and discussions regarding the
10 potential job-related issues.

11 Q. Such as whether their condition is permanent
12 and stationary, whether they can return to work or
13 not, those sort of job-related issues, is that what
14 you're talking about?

15 A. Often, yes.

16 MR. TYSON: Okay. I'm going to show you a
17 document. We'll pause for a minute to let the
18 reporter mark it as Exhibit 228.

19 THE WITNESS: I've seen it, Counsel.

20 (Defendant's Exhibit 228 was marked for
21 identification and is attached hereto.)

22 BY MR. TYSON:

23 Q. Doctor, do you recognize this document?

24 A. Yes.

25 Q. And what is it?

1 A. It looks as if it's my report.

2 Q. That you prepared?

3 A. Correct.

4 Q. And it's your report as to Will Taylor,
5 William Taylor I should say?

6 A. Yes.

7 Q. And this is your report based on the one
8 time that you did evaluate him as an Agreed Medical
9 Examiner; correct?

10 A. Correct.

11 Q. Can you tell us what your diagnoses that you
12 arrived at based on your examination? And if you're
13 referring to a page in your report, if you could just
14 direct us to that.

15 A. The diagnoses are recorded on page 17,
16 notably hypertensive cardiovascular disease and
17 gastroesophageal reflux disease.

18 Q. And those were your only two diagnoses;
19 correct?

20 A. Correct.

21 Q. All right. Can you just describe for us
22 briefly what you did? This is a fairly lengthy
23 report, so what did you do as far as examining
24 Mr. Taylor and/or reviewing anything else to produce
25 this?

1 A. I took a history, examined the patient,
2 completed diagnostic studies, reviewed records, and
3 then submitted my opinions and conclusions.

4 Q. And who was the history taken from?

5 A. The patient.

6 Q. And you personally took it in this case;
7 correct?

8 A. Correct.

9 Q. If he told you anything that you felt was
10 significant, is it recorded in this report?

11 A. Correct.

12 Q. Okay. Did you omit anything that you
13 thought was significant from this history?

14 A. To the best of my recollection, no.

15 Q. And you personally examined Mr. Taylor as
16 part of the examination that you mentioned?

17 A. Correct.

18 Q. What sort of diagnostic -- I believe you
19 said diagnostic studies, or something like that. Did
20 you do any studies?

21 A. Laboratory studies, electrocardiogram,
22 echocardiogram, and subsequently a cardiac stress
23 test.

24 Q. What was the first thing you said, lab?

25 A. Yes.

1 Q. What sort of labs did you do?

2 A. There's a long list of labs, Counsel. I can
3 give you that copy afterwards.

4 Q. Okay. We will discuss at the end what
5 number to put on the exhibit we're -- Ms. Brown, I
6 guess probably we'll stipulate at the end here to make
7 a copy of your full file which includes this page
8 you're referring to and attach that as an exhibit,
9 whatever the next in order number is.

10 Can you describe for us the page you're
11 telling us has all the list of labs on it? Is there a
12 heading at the top, or something like that? How would
13 we find this page in your copy of the records after
14 that?

15 A. Well, it's not numbered. It just has
16 laboratory data.

17 MS. BROWN: Is there a date on it?

18 THE WITNESS: Yes.

19 MS. BROWN: What's the date on that?

20 THE WITNESS: 11/6/09.

21 BY MR. TYSON:

22 Q. And there is a list of tests on the
23 left-hand side of the page, and a bunch of numbers on
24 the middle and right side of the page?

25 A. Correct.

1 Q. Okay. Thank you. Which of these lab
2 studies if any assisted in your diagnosis of the
3 gastro condition?

4 A. That would call for expert opinion, Counsel.
5 I can't answer.

6 Q. Well, you wrote a report here. Did any of
7 the tests support the statements in your report about
8 -- in arriving at your diagnosis?

9 A. Can't answer, Counsel. It calls for expert
10 opinion.

11 Q. Let me try it another way. Isn't it true
12 that the gastroesophageal reflux diagnosis is based on
13 what Mr. Taylor reported to you as part of his
14 examination?

15 A. Calls for expert opinion. I can't answer.

16 MR. TYSON: Let's go off the record for a
17 moment.

18 (Discussion held off the record.)

19 MR. TYSON: Back on the record.

20 BY MR. TYSON:

21 Q. Were there any -- you're looking at your
22 sheet that lists the lab studies, Doctor?

23 A. Correct.

24 Q. Okay. Were there any lab studies that you
25 did that contributed to your diagnosis of Bill Taylor

1 as having gastroesophageal reflux disease?

2 A. Calls for expert opinion. I can't answer.

3 Q. Were there any lab studies you did to
4 evaluate Mr. Taylor as to whether he had
5 gastroesophageal reflux disease?

6 A. Yes.

7 Q. What lab studies were those?

8 A. They are reflected in the copy of the
9 laboratory results on blood specimens drawn 11/6/09.

10 Q. The whole list?

11 A. Yes.

12 Q. The whole list relates to gastroesophageal
13 disease?

14 A. No. Well, that I can answer. The whole
15 list does not relate to gastrointestinal disease.

16 Q. Okay.

17 A. Even that's probably an expert opinion.

18 Q. Well, I mean, you're here because you
19 evaluated him as a doctor, so --

20 A. But not as an expert. But I'm not here as
21 an expert.

22 Q. You're here as someone who evaluated him as
23 a doctor and is providing a diagnosis.

24 So was there anything that you observed or
25 could test -- let's break this down.

1 Is there anything you observed with
2 Mr. Taylor that could -- that would confirm a
3 diagnosis that he had gastroesophageal reflux disease
4 during your November 6 evaluation?

5 A. Calls for expert opinion.

6 Q. Doctor, I'm asking what you observed.

7 A. I observed --

8 Q. Did you observe him having a disease, any
9 symptoms or anything?

10 A. I interviewed him.

11 Q. Okay.

12 A. And I have recorded what he told me and what
13 I found.

14 Q. Okay. And whether you're -- whether it's as
15 an expert, as a treating doctor, someone evaluating
16 him medically during that appointment to arriving at a
17 diagnosis of gastroesophageal reflux disease, that's
18 based on what he reported to you on November 6th; is
19 that right?

20 A. Calls for expert opinion.

21 Q. Did you observe Mr. Taylor experiencing in
22 your presence any symptoms of gastroesophageal reflux
23 disease?

24 A. I don't recall.

25 Q. Is there -- have you reviewed your report

1 prior to today?

2 A. Yes.

3 Q. Did you see any indication on your report
4 that you observed medically speaking any symptoms of
5 Mr. Taylor having gastroesophageal reflux disease?

6 A. I don't recall.

7 Q. If you had, it would be in your report,
8 right?

9 A. It might be.

10 Q. Is there a reason why it wouldn't make it in
11 there?

12 A. I can't think of any.

13 Q. What's the basis of your diagnosis of
14 hypertension?

15 A. Calls for expert opinion.

16 Q. Well, what did you observe during your
17 percipient observations of Mr. Taylor or your
18 evaluation of him that would cause that diagnosis?

19 A. They're reflected in my report of 11/6/2009.

20 Q. Okay. What medications did Mr. Taylor
21 report he was taking for hypertension at that time?

22 A. Calls for expert opinion.

23 Q. That calls for an observation of what he
24 told you, doesn't it, Doctor?

25 A. Not to me.

1 Q. Are you sure? You want to think about that
2 for a moment?

3 A. No.

4 MR. TYSON: Mark that question, please.

5 Ms. Brown, why don't we step outside for a
6 moment? Let's go off the record.

7 (Discussion held off the record.)

8 MS. BROWN: Okay. He will be paid by our
9 office, but he's -- to the extent it calls for
10 interpreting his notes we're not going to pay him to
11 offer retained expert opinions. But he can interpret
12 what he's concluded in his notes.

13 MR. TYSON: In his report based on his
14 examination?

15 MS. BROWN: Mm-hmm.

16 MR. TYSON: Okay.

17 MS. BROWN: Only what's in the report.

18 MR. TYSON: Sure.

19 MS. BROWN: Nothing beyond.

20 MR. TYSON: No other opinions generally
21 about this or that?

22 MS. BROWN: No, no, he hasn't been paid for
23 that. He hasn't been involved or paid by you guys for
24 that.

25 MR. TYSON: Well, I'm not trying to get into

1 that. I think --

2 MS. BROWN: Well, he'll explain the issues
3 over what's interpreted in the report and things like
4 that. I mean, he can explain the report. Okay.

5 MR. TYSON: We're on the record?

6 THE REPORTER: Yes.

7 BY MR. TYSON:

8 Q. All right. Doctor, looking at page 3 of
9 your report if you don't mind.

10 A. I have it, Counsel.

11 Q. Okay. Where you discussed the hypertension,
12 I believe you indicate here the medicines he's taking.
13 Can you tell us what he reported to you that he was
14 taking for hypertension at the time you saw him?

15 A. Avalide, A-V-A-L-I-D-E, and Avapro,
16 A-V-A-P-R-O.

17 Q. And it appears that he changed from Avalide
18 to Avapro?

19 A. Correct.

20 Q. Based on your report?

21 A. Correct.

22 Q. So Avapro is what he reported he was taking
23 at the time you saw him?

24 A. Correct.

25 Q. And he was also taking Wellbutrin according

1 to his report to you?

2 A. Correct.

3 Q. That's an antidepressant, it's not for
4 hypertension; correct?

5 A. Correct.

6 Q. Now, hypertension basically means he has
7 high blood pressure?

8 A. Correct.

9 Q. Okay. So is there anything -- you took his
10 blood pressure I assume at the time of the
11 observation?

12 A. Yes.

13 Q. Okay. And what was his blood pressure at
14 that time?

15 A. There were three readings.

16 Q. Okay.

17 A. Excuse me, four readings.

18 Q. Looks like you're looking at your report.
19 What page are you looking at?

20 A. Page 5.

21 Q. Thank you.

22 A. The nurse noted a blood pressure of 140 over
23 92. Thirty minutes later I noted a blood pressure of
24 154 over 100. Fifteen minutes after that, 154 over
25 100 on two occasions.

PROOF OF SERVICE

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 444 South Flower Street, Suite 2400, Los Angeles, California 90071-2953. On May 17, 2012, I served a copy of the within document(s):

NOTICE OF MOTION AND MOTION TO TAX COSTS; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF ROBERT J. TYSON IN SUPPORT THEREOF

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed OVERNITE EXPRESS envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to an OVERNITE EXPRESS agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 17, 2012, at Los Angeles, California.



Lisa J. Villarroel

SERVICE LIST
Taylor v. Burbank
LASC, Case No. BC422252

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